

1 DAVID E. DOXEY, ESQ.  
2 Nevada Bar No. 008429  
3 DAVID J. WINTERTON & ASSOC., LTD.  
4 211 N. Buffalo, Ste. A  
5 Las Vegas, Nevada 89145  
6 (702) 363-0317  
7 ddoxey@davidwinterton.com

5 **UNITED STATES DISTRICT COURT**  
6 **FOR THE**  
7 **DISTRICT OF NEVADA**

8 CENTER CAPITAL CORPORATION, ) Case No. 2:09-CV-01367-RLH-PAL  
9 Plaintiff, )  
10 vs. ) **REQUEST FOR ENTRY OF  
11 EAGLE JET AVIATION, INC., MILTON ) CLERK'S DEFAULT**  
12 WOODS, individually, and ALEX PENLY )  
13 individually, )  
14 Defendants. )  
15 \_\_\_\_\_

16 Plaintiff, Center Capital Corporation (“Center Capital”), by and through the undersigned,  
17 respectfully requests the entry of a Clerk’s Default against Defendants Eagle Jet Aviation, LLC  
18 (“Eagle Jet”) and Alex Penly (“Penly”), and in support thereof, states as follows:

19 1. Center Capital filed the Complaint for Money Damages and Writ of Replevin in  
20 this matter July 28, 2009. *See* Docket Entry (“D.E.”) 1. *See also* Affidavit of David E. Doxey,  
21 attached hereto as Exhibit 1, and incorporated by reference herein.

22 2. Summons were issued and Eagle Jet was properly served with summons on  
23 August 5, 2009. D.E. 9; Exhibit 1.

24 3. Penly was properly served with summons on August 4, 2009. D.E. 6; Exhibit 1.

25 4. Neither Eagle Jet nor Penly entered an appearance, answered, or otherwise pled in  
26 response to Center Capital’s Complaint for Money Damages and Writ of Replevin. Exhibit 1.

27 5. Center Capital filed its First Amended Complaint for Money Damages on August  
28 27, 2009. D.E. 11; Exhibit 1.

6. Center Capital properly served the First Amended Complaint for Money Damages  
on Eagle Jet and Penly on October 2, 2009. D.E. 14; Exhibit 1.

1       7.     As of the filing of this Request for Entry of Default, neither Eagle Jet nor Penly  
2 has filed an answer or other pleading or motion responsive to the First Amended Complaint for  
3 Money Damages in this matter. Exhibit 1.

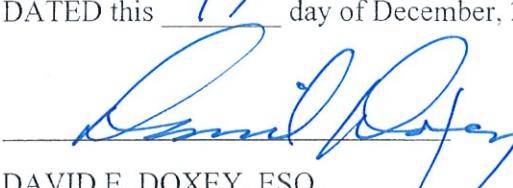
4       8.     Center Capital has obtained a Military Status Report Pursuant to the Service  
5 Members Civil Relief Act from the website of the Department of Defense Manpower Defense  
6 Data Center, at <https://www.dmdc.osd.mil/appj/scra/scraHome.do>, and learned that Penly is not  
7 on active duty in the military. Exhibit 1.

8       9.     Eagle Jet is a corporation and not subject to military service. Exhibit 1.

9       WHEREFORE Center Capital Corporation respectfully requests the Clerk enter a default  
10 against Eagle Jet Aviation, LLC and Alex Penly, pursuant to Fed. R. Civ. P. 55.

11      Respectfully Submitted,

12      DATED this 13 day of December, 2009

13  
14 By:   
15 DAVID E. DOXEY, ESQ.  
16 Nevada Bar No. 008429  
17 DAVID J. WINTERTON & ASSOC., LTD.  
18 211 N. Buffalo, Ste. A  
Las Vegas, Nevada 89145  
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1 CERTIFICATE OF MAILING

2 I hereby certify that I cause to be deposited in the United States mail, via first class, postage  
3 prepaid on the 17 day of December, 2009, at Las Vegas, Nevada a true and correct copy  
4 of the REQUEST FOR ENTRY OF CLERK'S DEFAULT addressed to the following:

5 Eric R. Olsen, Esq.  
6 GORDON & SILVER  
7 3960 Howard Hughes Pkwy, Ninth Floor  
8 Las Vegas, Nevada 89169-5978  
9 Email: [eolsen@gordonsilver.com](mailto:eolsen@gordonsilver.com)  
10 Attorneys for Milton Woods



11 An Employee of David J. Winterton & Assoc., Ltd.  
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5 **UNITED STATES DISTRICT COURT**  
6 **FOR THE**  
7 **DISTRICT OF NEVADA**

8 CENTER CAPITAL CORPORATION, ) Case No. 2:09-CV-01367-RLH-PAL  
9 Plaintiff, )  
10 vs. )  
11 EAGLE JET AVIATION, INC., MILTON ) **AFFIDAVIT IN SUPPORT OF**  
12 WOODS, individually, and ALEX PENLY ) **PLAINTIFF'S REQUEST FOR**  
13 individually, ) **ENTRY OF DEFAULT**  
14 Defendants. )  
15 \_\_\_\_\_

16 I, David E. Doxey, am over the age of eighteen (18), and being first duly sworn, depose  
17 and state as follows:

18 1. I am the attorney of record for Plaintiff Center Capital Corporation in the case  
19 entitled *Center Capital Corporation v. Eagle Jet Aviation, Inc., et al.*, case no. 2:09-CV-01367-  
20 RLH-PAL.

21 2. On July 28, 2009, I caused Center Capital Corporation's Complaint for Money  
22 Damages and Writ of Replevin to be filed in this matter. *See* Docket Entry ("D.E.") 1.

23 3. Summons were issued and Defendant Eagle Jet Aviation, Inc. was properly  
24 served with summons on August 5, 2009. D.E. 9.

25 4. Defendant Alex Penly was properly served with summons on August 4, 2009.  
26 D.E. 6.

27 5. Neither Eagle Jet nor Penly entered an appearance, answered, or otherwise pled in  
28 response to Center Capital's Complaint for Money Damages and Writ of Replevin.

6. On August 27, 2009, I caused Center Capital Corporation's First Amended  
Complaint for Money Damages to be filed in this matter. D.E. 11.

7. Defendant Eagle Jet Aviation, Inc. and Defendant Alex Penly were properly served with the First Amended Complaint for Money Damages on October 2, 2009. D.E. 14.

8. As of the execution of this Affidavit in Support of Request for Entry of Default, neither Eagle Jet Aviation, Inc. nor Alex Penly has filed an answer or other pleading or motion responsive to the First Amended Complaint for Money Damages in this matter.

9. Center Capital has obtained a Military Status Report Pursuant to the Service Members Civil Relief Act from the website of the Department of Defense Manpower Defense Data Center, at <https://www.dmdc.osd.mil/appj/scra/scraHome.do>, and learned that Penly is not on active duty in the military. A true and correct copy of the Military Status Report is attached hereto as Exhibit A.

10. Eagle Jet is a corporation and not subject to military service.

FURTHER AFFIANT SAYETH NAUGHT.

By:

David E. Doxey, Esq.

Subscribed and sworn to before  
me this 17 day of December 2009.

## Notary Public



A

Department of Defense Manpower Data Center

Dec-07-2009 08:02:04



Military Status Report  
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
PENLY	ALEX		Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.		

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

*Mary M. Snavely-Dixon*

Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL, <http://www.defenselink.mil/fac/pb/PC098LDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

***More information on "Active Duty Status"***

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

***Coverage Under the SCRA is Broader in Some Cases***

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester.

Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID:9K247S0R60

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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9 It appearing from the records in the above-entitled action that Summons issued on the  
10 First Amended Complaint for Money Damages filed on August 27, 2009, and regularly served  
11 on each of the Defendants hereinafter named on October 2, 2009; and it appearing from the  
12 affidavit of counsel and the records herein that each of said Defendants has failed to plead or  
13 otherwise defend in said action as required by said Summons provided by the Federal Rules of  
14 Civil Procedure.

15 Now, therefore, on request of counsel for Plaintiff, the DEFAULT, as aforesaid, of each  
16 of the following Defendants: EAGLE JET AVIATION, INC. and ALEX PENLY  
17 in the above-entitled action is hereby entered.

19 RATER: LANCE S. WILSON, CLERK

By: \_\_\_\_\_ Deputy Clerk